

## REMARKS

Claims 34 and 36-46 are now in the application and are directed to the elected species.

Pursuant to a recent telephone discussion with Examiner Patel, attached to this response is a Terminal Disclaimer. Examiner Patel stated that the filing of a Terminal Disclaimer would overcome a proposed rejection of the claims under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims of U.S. PATENT 6,730,857. The filing of the Terminal Disclaimer, however, is not to be construed as an admission, estoppel or acquiescence. See *Quad Environmental Technology v. Union Sanitary District*, 20 USPQ2d 1392 (Fed. Cir. 1991) and *Ortho Pharmaceuticals Corp. v. Smith*, 22 USPQ2d 1119 (Fed. Cir. 1992).

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Please charge any additional fees that may be due to our Deposit Account No. 22-0185, or credit any overpayment to our Deposit Account No. 22-0185 under Order No. 20135-00323-US1 from which the undersigned is authorized to draw.

Dated: 2-28-05

Respectfully submitted,

By   
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